

**DEPARTMENT OF HEALTH & HUMAN SERVICES****ADMINISTRATION FOR CHILDREN AND FAMILIES**

370 L'Enfant Promenade, S.W.

Washington, D.C. 20447

OCT 28 2004

Mr. Maurice Jones
Commissioner
Department of Social Services
7 North Eighth Street
Richmond, Virginia 23219-2301

Dear Mr. Jones:

The Administration for Children and Families and the Centers for Medicare and Medicaid Services have reviewed your request regarding two new procurement processes available in the Commonwealth. The first is a process that is authorized under the Public-Private Educational Facilities Infrastructure Act (PPEA) and the second is a new contract list, which is referred to as the IT Services Contracts. After reviewing the supporting documentation and participating in discussions with Commonwealth staff, we have some concerns about these new procurement methodologies that should be addressed by the Commonwealth as it uses these vehicles.

PPEA

It is our understanding that the PPEA process allows a private entity to offer an unsolicited proposal, which the Commonwealth reviews and either rejects or prepares a solicitation to bid through its website and the Virginia Business Opportunities publication.

- If the Commonwealth does not receive a sufficient number of proposals, then we would consider the resulting procurement as a non-competitive acquisition. As a non-competitive procurement, we would apply greater scrutiny in its evaluation of the request.
- The first and second phase announcements called for under this process must provide sufficient information to allow the vendors to prepare competitive proposals. The process must, to the maximum extent possible, allow for free and open competition.
- If the proposed procurement exceeded the applicable threshold, the Request for Proposal or related Statement of Work would need to be submitted for prior approval.
- The Commonwealth is reminded that we would expect that the response time allowed to prospective vendors during either phase of the process would be commensurate to the level of difficulty related to the project.
- If the total costs of a project using this approach exceed the applicable threshold, the Commonwealth would need to submit a thorough business case and alternatives analysis before we would provide funding for the project.

IT Services Contracts

In general, this vehicle is a list of contractors that are available to provide various information technology services to different State Agencies. These types of lists are frequently used in other states and as long as they allow for a competitive process, they are an acceptable approach for many types of small procurements. The Commonwealth should follow the guidance presented below in utilizing this procurement vehicle.

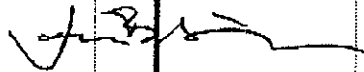
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- The Commonwealth will need to make a business case for the project if it is expected to exceed the applicable threshold.
- The Statement of Work will need to be presented to each vendor on the list.
- If the work is being procured on a phased basis, the Commonwealth would need to be sensitive to real and apparent conflicts of interest that might provide a competitive advantage to a vendor, or that of a sub-contractor, based on work completed during the initial procurement. This could be problematic under the stated process where the Commonwealth has encouraged vendors to team with many other partners.
- Generally, we do not support the use of these types of lists for large system development efforts.
- As with the PPEA process, the Commonwealth may need to submit the procurement vehicle to us for prior approval and may need to submit an Advance Planning Document to request funding for the project.

In summation, any contracts submitted for federal financial participation under these procurement procedures will be closely reviewed by us to ensure that they have followed all federal regulations governing full and open competition.

If you have any questions, please contact Mark Graboyes on (202) 401-7237.

Sincerely,



Joel B. Anthony
Director
Office of Financial Services

Reference: 062404 VA

cc:

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